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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-third session

SUMMARY RECORD OF THE 578th MEETING

Held at the Vienna International Centre, Vienna,
on Thursday, 31 March 1994, at 10 a.m.

Chairman: Mr. MIKULKA (Czech Republic)

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The meeting was called to order at 10.40 a.m.

CONSIDERATION OF THE LEGAL ASPECTS RELATED TO THE APPLICATION OF THE PRINCIPLE THAT THE EXPLORATION AND UTILIZATION OF OUTER SPACE SHOULD BE CARRIED OUT FOR THE BENEFIT AND IN THE INTERESTS OF ALL STATES, TAKING INTO PARTICULAR ACCOUNT THE NEEDS OF DEVELOPING COUNTRIES (agenda item 5) (continued) (A/AC.105/544; A/48/20)

1. Mr. EL HUSSEIN (Sudan) reiterated the need for the establishment of a global regime to ensure the rational and equitable use of outer space, taking into account the special needs of the developing countries. That need was growing more acute as outer space was fast becoming a potential domain for rival claims, given the increasing number of States possessing the necessary scientific knowledge and technical capabilities to gain access to it and its resources. Unless the situation was regulated in some way, outer space risked being monopolized by a few nations to the detriment of the majority of the developing countries and future generations. Similar fears had prevailed in the 1960s regarding the seabed and the ocean floor beyond the limits of national jurisdiction, which had subsequently been described in the United Nations Convention on the Law of the Sea as the "common heritage of mankind". Since sea space, airspace, outer space and land space were interrelated domains of the universe and man was the sole beneficiary of the resources contained therein, one comprehensive legal regime should be established to cover those different domains and their related problems. He recommended that the Legal Subcommittee should carefully consider the approach adopted by the Third United Nations Conference on the Law of the Sea and seek consensus solutions to the various issues under consideration which were not dissimilar to those taken up by the Conference, such as the outer limits of national jurisdiction, transfer of technology and protection of the environment. The Subcommittee would be greatly assisted in its task if copies of the Convention were made generally available. Moreover, the views and advice of the various experts on the seabed and relevant legislation who were attending the current session would be most useful.

2. The issues involved had been examined as a whole at the Conference and agreement had been reached by consensus on a package of proposals. Furthermore, an international authority had been established to regulate access to the international seabed and administer the resources it contained for the benefit of all mankind, taking into account the special needs of the developing countries. Lastly, a system for the compulsory settlement of disputes had been developed which provided for the establishment of an International Tribunal for the Law of the Sea.

3. Given the similarity of the issues at stake, a number of the basic principles governing the seabed might be applicable in the case of outer space. For instance the outer limit of space might be defined on the basis of the delimitation of the continental shelf given in the Convention on the Law of the Sea. Second, since, like the seabed, the geostationary orbit was a limited resource, regulations to ensure its rational and equitable use with particular attention to the special needs of the developing world and the least developed countries, along the lines of those contained in the Convention, could be justified.

4. With regard to the dissemination of scientific knowledge and the transfer of technology, the Third United Nations Conference on the Law of the Sea had adopted an approach which took due account of the concerns of both the industrialized and the developing countries. Under the regime established by the Conference, transfer of technology was mandatory with reciprocal incentives and safeguards for owners and beneficiary countries alike. For instance, the countries providing technology would have priority access to shareable resources; moreover, there were specific provisions to prevent beneficiary countries from passing on technology received to users in other countries. While he appreciated the concerns voiced by several delegations concerning the sovereign rights of States in the matter of transfer of technology and know-how, it must be recognized that the continued absence of appropriate regulations relating to outer space would lead to chaos. In order to avert such a situation, a more forward-looking approach to the situation was advisable.

5. Although the relevant provisions of the United Nations Convention on the Law of the Sea were merely intended to serve as a basis for further consideration by the Subcommittee, in the case of the geostationary orbit, he recommended the adoption of a system along the lines of that established to administer the resources of the seabed beyond the limits of national jurisdiction, as well as the possible establishment of a competent authority for that purpose.

6. In that connection he drew attention to the working paper submitted at the previous session by the Colombian delegation, reproduced in document A/AC.105/544, annex IV.A, which highlighted the fact that in order to bridge the gap between developing and developed countries it was essential to ensure the rational allocation of that limited resource by according some preferential treatment to developing countries. Scientific knowledge and technology must be regarded as the common heritage of mankind and thus transcend all political and geographical considerations. Existing forms of cooperation between different countries and regions should serve as a model for future activities. An appropriate formula must be found whereby countries currently unable to take advantage of the geostationary orbit would be guaranteed access to it in future once they had acquired the necessary technological capabilities. As to the principle of "first-come, first-served" outlined in the same document, although he appreciated the rationale behind the proposal, he was concerned as to its implications.

7. In conclusion, he invited the Subcommittee to weigh the issues carefully before drawing any conclusions. It was essential to find a viable solution that would meet the needs of developing countries, which, although they constituted the majority on the Subcommittee, wished to avoid forcing the issue. He therefore urged members to give due consideration to his remarks and the proposals contained in the Colombian working paper with a view to making some headway on the issues at the forthcoming session.

8. Mr. GONZALEZ (Chile) said that several delegations speaking at the current session had emphasized the extent of bilateral cooperation in outer space matters. It should be noted that, from a legal and political standpoint, such cooperative arrangements involved rights and obligations of

both parties and had to entail benefits on both sides. They could not be viewed as acts of charity or generosity.

9. Mr. GONDANE (India) said that significant advances had been made in the exploration of outer space during the last few decades. The benefits of the applications derived from the developments in space science and technology needed to be made more widely available. International cooperation was thus essential, and the Committee on the Peaceful Uses of Outer Space and its two Subcommittees had a key role to play in that endeavour. The Legal Subcommittee should direct its efforts not only towards regulating activities in outer space but also towards elaborating legal principles for the conduct of international cooperation, in the spirit of the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, in particular the principle it laid down concerning universality of benefits. That goal had not been achieved in practice, and several States still encountered obstacles in gaining access to outer space and in taking full advantage of space technology.

10. It was the Subcommittee's duty to find the legal means to redress that situation. The diverse and specific needs of the developing countries should be taken into account in the matter of equitable access to the benefits of outer space. The indigenous capabilities of the developing nations must be enhanced according to those countries' needs. In the promotion of international cooperation, the principles of non-discrimination and non-interference had to be upheld, and the transfer of technology and infrastructures for purely peaceful applications had to be ensured.

11. In the legal and political sense, bilateral cooperation could not be contemplated to the exclusion of multilateral cooperation. There was a need to progress from a network of bilateral relationships to a wider form of international cooperation.

12. Mr. de YTURRIAGA (Spain), referring to the comments made by the representative of Sudan, said he agreed that there were a number of similarities between the law of the sea and the legal approach to outer space. Many of the principles set out in the United Nations Convention on the Law of the Sea could and should be used by the Legal Subcommittee in its work. The representative of Sudan had mentioned a number of those principles, and he himself would add that freedom of transit and communications should be viewed as fundamental to outer space law. One had to be wary, however, of transposing the law of the sea, mutatis mutandis, to the law of outer space.

13. He thanked the representatives of Sudan and the Russian Federation for the thought-provoking suggestions they had made, which should be kept under consideration for use in the Subcommittee's work, with a view to elaborating generally acceptable principles.

14. Turning to a different subject, he said he did not agree with the composition of the Committee on the Peaceful Uses of Outer Space and its subcommittees. Spain held fifth place in contributions to the European Space Agency and was a space Power with its own programme for launching satellites.

For many years, however, it had been obliged to share a seat on the Committee in rotation with its neighbour, Portugal. Consultations had been ongoing under the auspices of Austria to alleviate that problem, but no results had yet been achieved. His delegation intended to propose re-examining the composition of the Committee on the Peaceful Uses of Outer Space when the Committee met in June 1994.

QUESTION OF EARLY REVIEW AND POSSIBLE REVISION OF THE PRINCIPLES RELEVANT TO THE USE OF NUCLEAR POWER SOURCES IN OUTER SPACE (agenda item 3) (continued)

15. Mr. REY CORDOBA (Colombia) reiterated his delegation's view that the Principles Relevant to the Use of Nuclear Power Sources in Outer Space should not be revised unless technical reasons for so doing emerged from the discussions in the Scientific and Technical Subcommittee. None the less, he agreed with the suggestion made by the Mexican representative at the previous meeting: there was no reason why the Working Group on the subject should not study regulations on the use of nuclear power sources in outer space or other matters, thereby justifying its continued existence.

16. Mr. TELLES RIBEIRO (Brazil) said that his Government believed that a revision of the Principles would be premature. His delegation welcomed the consensus reached in the Working Group on item 3 at the previous session that any revision of the Principles would have to take place in the light of significant scientific and technical developments, and agreed that a future revision would have to be geared towards improving the levels of safety of nuclear power sources provided for by the Principles. It also welcomed the United States statement to the effect that the Principles were consistent with United States practices and that consequently a revision would not be sought at the current stage.

17. There therefore appeared to be no further possibilities for substantive discussion in the Legal Subcommittee. Since the Scientific and Technical Subcommittee would continue to discuss the item, it would suffice to keep it on the agenda of the Legal Subcommittee for future sessions. However, unless significant developments took place those deliberations would not take up a great deal of time, and the Subcommittee should therefore start to think about possible new items for future consideration. Following discussions in the Scientific and Technical Subcommittee a decision could probably be taken as to whether the question of space debris should be taken up by the Legal Subcommittee.

18. Moreover, given the probable reduction in the time allocated for consideration of agenda item 3 at future sessions, the Subcommittee might see whether extra time might be given over to consideration of items 4 and 5 should the need arise.

19. Ms. RIOS (Indonesia) reiterated, in connection with the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, her delegation's view that the utilization of nuclear power sources in outer space was a matter of common concern to the international community since it could affect the environment and the safety of human lives. She reaffirmed the importance of strict adherence to the Principles.

20. In view of the rapid development and applications of space science and technology, in particular relating to the physics and dynamics of space objects and debris, including ways and means of predicting orbits and re-entry trajectories, her delegation urged further study by the Subcommittee of the legal aspects relating to development of nuclear power sources technology, taking into account the relevant studies by the Scientific and Technical Subcommittee.

21. Mr. GONZALEZ (Chile) agreed with the views of the Colombian representative regarding the Working Group on Nuclear Power Sources in Outer Space, and said he would be prepared to examine any element that might justify the continued existence of the Working Group.

22. His delegation also endorsed the views of the Brazilian representative. The Subcommittee had a mandate to study the question of early review and possible revision of the Principles, which could not be set aside, but interest in nuclear power sources was declining and it would be useful to start informal discussions on whether a new item should be included on the Subcommittee's agenda and on the possibility of expanding discussion on the existing items.

23. Mr. MARÍA CURIA (Argentina) suggested that the Principles should not be amended but appropriately supplemented, in close coordination with the Scientific and Technical Subcommittee. Moreover, the time devoted to agenda item 3 might better be allotted to other items on the agenda or to new ones. The question of space debris in particular merited further study.

24. Mr. GONDANE (India) said that since the Principles had been agreed only two years earlier, after long negotiation, there was no need to revise them as yet. There might, however, be a future need for revision of Principle 3 (guidelines and criteria for safe use), perhaps in conjunction with the International Atomic Energy Agency.

25. Mr. McRAE (Canada) considered that the approach suggested by the Colombian representative was not an appropriate one. If the Subcommittee decided that new items should be discussed, it was free to establish new working groups for the purpose; but there was no justification for continuing the discussion of the issue of nuclear power sources in the legal context. He therefore suggested that the Working Group on Nuclear Power Sources should not be reconstituted unless there were further relevant technical or scientific developments.

26. Perhaps, as the representative of India had suggested, IAEA might contribute some ideas on the subject, and of course the Scientific and Technical Subcommittee could always make recommendations to the Committee and to the Legal Subcommittee for reconsideration of the item.

OTHER MATTERS

27. Ms. RAMIREZ DE ARELLANO Y HARO (Mexico) said that her delegation did not question the validity of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space. Any revision of those Principles would be dependent on developments in safety aspects and would require prior evaluation by the

Scientific and Technical Subcommittee. It would nevertheless be regrettable if the item under discussion were removed from the Subcommittee's agenda or allocated less time, since the Subcommittee had much to debate in that connection with a view to the possible future elaboration of a treaty on the subject.

OTHER MATTERS

28. Mr. HODGKINS (United States of America) said his delegation was very well satisfied with the Chairman's efforts in conducting the Subcommittee's session and in endeavouring to improve the organization of work. Enhancing the effectiveness within the United Nations system, both of the Committee on the Peaceful Uses of Outer Space and of its two Subcommittees, was a priority for his country. The Legal Subcommittee should remain focused on the peaceful uses of outer space and not move into other issues such as disarmament, the discussion of which was better suited to the activities of other organizations.

29. Ms. OK (Observer for Turkey) noted that the Spanish delegation had raised a subject of great significance for her country: the enlargement of the Committee on the Peaceful Uses of Outer Space. Turkey had become a member of that body in 1977 and, in 1980, had entered into a gentleman's agreement to rotate its membership with that of Greece. Being at present an observer in the work of the Committee, Turkey found that its ability to participate in that work was impeded. Her country therefore supported the idea of enlarging the membership of the Committee.

30. The CHAIRMAN said that he would convey those concerns to the Chairman of the Committee on the Peaceful Uses of Outer Space.

31. Mr. IOANNOU (Greece) called for the scheduling of meetings and the timing for discussion of items to be clearly delineated in advance. All afternoons should be devoted to meetings of working groups or to plenary meetings, and not to informal consultations. In the past, informal consultations had been held in the evenings, and that procedure should be reverted to in order to take advantage of every opportunity for substantive discussions.

32. He wished to register his view that enlargement of the Committee's membership would be a necessary step. Greece had been a candidate for permanent membership on the Committee on the Peaceful Uses of Outer Space for many years.

33. Mr. AFZAL (Islamic Republic of Iran) asked for clarification from the Secretariat about how members of the Committee were elected and the duration of their membership.

34. Mr. JASENTULIYANA (Secretary of the Subcommittee) said the Committee on the Peaceful Uses of Outer Space was a subsidiary body of the General Assembly and its members were therefore elected by the General Assembly. In the 1960s, its membership had been 28, but it had been enlarged a number of times by decision of the General Assembly, so that the membership now stood at 53. Members were elected with due regard for equitable geographical distribution and on a permanent basis. The only exception had been when China had been admitted to membership of the United Nations and had subsequently been elected

to the Committee. In accordance with a recent General Assembly resolution, the Chairman of the Committee was engaging in consultations on enlargement with a view to reaching a consensus by the Committee's June 1994 meeting.

35. Mr. MARÍA CURIA (Argentina) asked for clarification on the procedure for preparation of press releases.

36. Mr. LOUET (France) welcomed the fact that a representative of the Department of Public Information had agreed to attend the meeting to discuss the production of press releases, which fulfilled an important function: they were used by press services around the globe, as well as by delegations, to learn about the activities of various United Nations bodies. That was why his delegation was greatly concerned about their quality. It was important, in that connection, to ensure that the statements of delegations were not misrepresented. He was convinced that, with the assistance of the Department of Public Information, accuracy in the press releases could be ensured. For his part, he pledged full collaboration in that effort.

37. Ms. BORMAN (Department of Public Information) said that the problems identified by France in the press release of 28 March 1994 had been corrected. In future, any complaints should be communicated directly to the Department of Public Information, which would endeavour to correct any errors before press releases were transmitted to United Nations offices throughout the world.

38. There was genuine and intense public interest in the work of the Subcommittee, in outer space affairs and in legislation on outer space. The Department sought to make those issues understandable for the layperson, and that was sometimes very difficult to achieve. Difficulties were minimized when delegations provided texts of their statements.

39. In view of the extremely demanding deadlines faced by the Department, all it could do was to seek to avert inaccuracies, and dialogue with delegations was invaluable in that regard. However, the time constraints under which the Department worked precluded the submission of press releases to delegations for vetting before they were issued.

The meeting rose at 1 p.m.